

**MEMO ENDORSED**STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERALANDREW M. CUOMO
Attorney GeneralCRIMINAL DIVISION
Federal Habeas Corpus Section

May 13, 2008

BY FACSIMILEHonorable James C. Francis IV
United States Magistrate Judge
Southern District of New York
500 Pearl Street, Room 2270
New York, New York 10007-1312
Fax: (212) 805-7930Re: Marasa v. Alexander
08 CV 2066 (PAC) (JAF)

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
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DATE FILED: <u>5/15/08</u>

Dear Judge Francis:

I am writing to clarify Your Honor's Rule 4 order, dated March 31, 2008, in which respondent is directed to file an answer to the petition "raising all available defenses no later than May 30, 2008." By my calculation, the petition is two days untimely, and I am requesting permission to file a motion to dismiss the petition without addressing the merits. Although I normally would incorporate an untimeliness argument into my complete answer, the transcript in this case is approximately 12,000 pages and petitioner has claimed that the evidence was insufficient to establish his guilt. If Your Honor denies the motion to dismiss, I intend to request a four month extension to address the merits of petitioner's claims.

Thank you for your consideration.

Respectfully submitted,

*Alyson J. Gill*Alyson J. Gill
Assistant Attorney General
(212) 416-6037

cc (by U.S. Mail):

Salvatore Marasa
147 Margin Drive
Shirley, New York 11967

Application granted. Respondent shall file the motion by May 30, 2008, petition shall answer it by June 30, 2008, and respondent shall submit any reply by July 15, 2008. If the motion is denied, respondent shall answer the petition within 60 days and respondent shall reply 30 days thereafter.

120 Broadway, New York, NY 10271 • Fax (212) 416-6010

5/15/08
SO ORDERED*James C. Francis IV*
USMJ TOTAL P.02